

whereby when said fastener strap is inserted through said aperture a support loop of variable dimension is formed by said fastener portion and said support member for receiving said duct therein.

9. An adjustable flexible strap as recited in claim 7 wherein said plurality of serrations provides for adjustment of the length of said strap member.

10. An adjustable flexible strap as recited in claim 9 wherein said second end of said strap member further has a flap portion which lockingly engages one set of said plurality of serrations.

R E M A R K S

This amendment is being submitted in response to the final Office Action dated 9 August 2002, the time to respond which is herein extended until 9 December 2002. Reconsideration and allowance of this application are respectfully requested. Claims 9 and 10 are herein amended. Thus, claims 1-7 and 9-15 are pending in the application.

The Examiner objected to claims 9-11 and 14 as depending from a canceled base claim. This problem is herein remedied by amendment of claims 9 and 10.

The Examiner rejected claims 1-7 and 9-15 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 3,197,830 to Hoadley in view of U.S. Patent No. 4,477,950 to Cisek et al.

According to the Examiner, Hoadley shows a strap having a fastener portion 12 and serrations (apex d), support members (a & e) and a channel (b) formed in the strap, means 34 for attaching the strap to an existing structure, and an end (d) with means for lockingly engaging the serrations (slot 26). The Examiner acknowledges that Hoadley does not show a plurality of serrations along the fastener portion 12. That is because Hoadley was meant for binding electrical cords, and the fastener portion 12 of Hoadley is meant only for gripping a fixed-diameter cord. Nevertheless, the Examiner contends that "it would have been obvious to one skilled in the art" to modify the Hoadley apparatus to include a fastener portion having a plurality of serrations as taught by Cisek et al.

As stated in the specification, a primary advantage of the present invention is the ability to adjust the fixture without taking it apart. This is to accommodate different sized pipes and ducts as well as to hang them at different elevations. This feature is implemented by a fastener strip (12) that is inserted into a receiver loop (14), and that is variable in diameter relative to a fixed point of suspension. Structurally, this is achieved by cutting a serrated strip out (along three sides) from a blank to form a serrated fastener strip (12) that can then be inserted into the receiver loop (14). This forms a support loop of variable dimension and of variable height-adjustability. The resulting "on-the-job" adjustment feature is especially helpful in the intended context because pipes tend to expand/contract and may settle over time.

The Hoadley fastener is *not* adjustable in dimension (i.e. diameter). The inability to adjust the dimension of the loop creates severe limitations as to the articles to which the strap (10) may be attached. Cisek et al. does not have a serrated central section cut along the centerline of an elongate strap as required by claim 7. Moreover, there is no motivation or

suggestion to combine the trash-bag type closure of Cisek with the cord binder of Hoadley. The two references serve entirely different purposes, and neither of these purposes is in following that of the present invention, which is to be able to suspend pipes of different sizes and to allow adjustment of their suspension level without taking the strap apart.

To support a valid rejection under 35 U.S.C. @ 103 the cited art must suggest that it can accomplish the Applicant's results. *Ex parte Tanaka, Marushima and Takahashi*, 174 U.S.P.Q. 38 (Pat. Off. Bd. App. 1971). If the proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification. *In re Gordon*, 733 F.2d 900, 221 U.S.P.Q. 1125 (Fed Cir. 1984), *see* M.P.E.P. 2143.01. Furthermore, if the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious. *In re Ratti*, 270 F.2d 810, 123 U.S.P.Q. 349 (C.C.P.A. 1959), *see* M.P.E.P. 2143.01.

In order to make the above-described distinction more clear in claim 7, claim 7 is herein amended to recite "a fastener portion formed by cutting a central section lengthwise along said strap, *said central section being substantially separable from said strap except at one end to leave a channel, and said strap having a plurality of serrations formed lengthwise therealong*". In addition, claim 7 recites "a pair of support members *having said channel formed there between*" Applicant believes that amended claim 7 is now patentably distinguished.

Claims 12 and 13 depend from claim 7 and incorporate by reference the same above-described limitations. Consequently, Applicant believes that claims 12 and 13 are also patentably distinct.

Claim 1 is amended in the same manner as claim 7.

Claims 2-6 depend from claim 1 and incorporate by reference the same limitations.

Additionally, claims 9-11 (claim 8 being herein cancelled) and 14 depend from claim 7 and incorporate by reference the same limitations. Consequently, Applicant believes that claims 2-6, 9-11, and 14 are also patentably distinct.

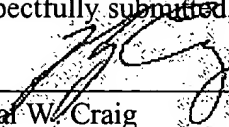
Claim 15 recites “[a] method for hanging and supporting ducts or other devices from an existing structure comprising the steps of...separating said strap into a pair of support members and a fastening portion characterized by a plurality of serrations...adjusting the length of said strap by pulling said fastening portion through said receiving means...engaging one of said plurality of serrations with said receiving means such that said desired length is fixed.” The elements of the Hoadley device (i.e. fastener portion (12) and pair of support members (reference letters “a” and “e” as added to Figure 2 by the Examiner)) that may be *separated* do not possess a plurality of serrations providing for an adjustable length loop formed when the fastener portion (12) is pulled through the matching aperture (18). Therefore, any loop formed by Hoadley’s fastener portion (12) and pair of support members (Fig. 2, “a” and “e”) will possess a non-adjustable (i.e. fixed or pre-determined) length. Thus, Applicant believes that the method of claim 15 is patentably distinguished from that disclosed in the specification and claims of Hoadley.

* * * * *

In view of the above amendments and remarks, it is believed that this application is now in condition for allowance, and such a Notice is respectfully requested.

In re Application of: Dunay et al.
Appln. No. 09/875,207
Page 7

Respectfully submitted,



Royal W. Craig
Attorney for Applicant
Reg. No. 34,145
December 9, 2002

Date

Law Offices of Royal W. Craig
10 North Calvert Street
Suite 153
Baltimore, Maryland 21202
(410) 385-2383

APPENDIX A: REDLINED CLAIMS

Redlined versions of claims :

1.(Twice amended) A duct support device comprising:

fastener an elongate strap having:

- (i) a fastener portion formed by cutting a central section lengthwise along [in] said strap, said central section being substantially separable from said strap except at one end to leave a channel, and said strap having [with] a plurality of serrations formed lengthwise therealong [the length of said fastener portion];
- (ii) a pair of support members having [a] said channel formed there between;
- (iii) a first end having means for attaching said strap to an existing structure; and
- (iv) a second end having means for receiving and lockingly engaging said serrations of said fastener portion;

whereby when said fastener portion is inserted through said receiving means of said second end of said strap, a support loop of variable dimension is formed by locking engagement between one of said plurality of serrations and said second end of said strap.

7. (Twice amended) An adjustable flexible strap for supporting and securing ducts, comprising a strap member having:

- fastener*
- (i) a fastener portion formed by cutting a central section lengthwise along [in] said strap ~~[member]~~, said central section being substantially separable from said strap except at one end to leave a channel, and said strap having [said fastener portion comprising] a plurality of serrations formed lengthwise therealong [the length of said fastener portion];
 - (ii) a support portion including a pair of support members having said channel formed there between;
 - (iii) a first end for attaching said strap member to an existing structure; and
 - (iv) a second end having an aperture for receiving and engaging said fastener portion;

whereby when said fastener strap is inserted through said aperture a support loop of variable dimension is formed by said fastener portion and said support member for receiving said duct therein.

9.(Once amended) An adjustable flexible strap as recited in claim [8] 7 wherein said plurality of serrations provides for adjustment of the length of said strap member.

10.(Once amended) An adjustable flexible strap as recited in claim [8] 9 wherein said second end of said strap member further has a flap portion which lockingly engages one set of said plurality of serrations.